

Appln. No.: 10/522632
Amendment dated December 18, 2008
Reply to Office Action of July 18, 2008

Amendments to the Drawings:

The attached five (5) replacement sheets of drawings include changes to Figs. 1-11. These sheets, which include Figs. 1-11, replace the original sheets including Figs. 1-11.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

The office action of July 18, 2008 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 8, 11, 22 and 24-31 have been canceled without prejudice or disclaimer and new claims 32-39 have been added. Claims 1-7, 9, 10, 12-21, 23 and 32-39 are pending upon entry of the present amendment.

Objections to the Drawings/Claims

The drawings stand objected to under 37 C.F.R. § 1.83(o) as failing to include suitable descriptive legends making them unclear as to how they correspond to their descriptions in the specification. Applicants have included herewith five (5) replacement sheets including Figs. 1-11 for replacing the originally filed figures. Approval and entry are respectfully requested.

Claims 5 and 17-18 stand objected to based on various informalities, most notably improper multiple dependency. Claims 5, 17 and 18 have been amended to correct these informalities.

Rejections under 35 U.S.C. § 101

Claims 24-27 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 24-27 have been cancelled.

Rejections under 35 U.S.C. § 102

Claims 1-31 stand rejected under 35 U.S.C. § 102(b) as being anticipated by WO 00/33511 to Minde et al. (“Minde”), as applied in the International Search Report. Claims 1-31 also stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent no. 5,958,009 to Friedrich et al. (“Friedrich”). Applicants respectfully traverse these rejections.

Amended independent claim 1 recites, *inter alia*, “receiving a trigger signal at the monitoring apparatus from a remote network entity upon an emergence of a critical situation corresponding to the quality of service of the application; and in response to receiving the trigger signal, transmitting, from the monitoring apparatus, the stored network data to a remote network archive.” Neither Minde nor Friedrich teaches or suggests such features. In particular, nowhere

does either of the references teach or suggest the transmission of data indicative of network behavior to a network archive in response to *a trigger signal received from a remote network entity*. In Friedrich, for example, a sensor within a node collects data and reports the data only when a threshold is exceeded within the node. Col. 7, ll. 11-15. Nonetheless, Friedrich fails to teach or suggest that the data is reported in response to a trigger signal received from a *remote network entity*. Minde is similarly deficient. At most, Minde describes the measurement of link and device parameters at various nodes and endpoints in a packet switched network and the transmission of such data to a service quality supervisor (SQS). P. 8, ll. 7-15. However, even assuming that the SQS constitutes a network archive, the measurements and data are not sent in response to a trigger signal received from a remote network entity as recited in claim 1. Significantly, Minde states that the end-user quality of service at the endpoint is reported to the SQS at *regular intervals*. P. 8, ll. 14-15. Accordingly, claim 1 is allowable for at least these reasons.

Claim 13 recites, *inter alia*, “at least one monitoring apparatus configured to measure and store data indicative of the behavior of said network, at least one testing apparatus, separate from the at least one monitoring apparatus, configured to detect the occurrence of a critical situation related to said quality of service and to generate, at the emergence of said critical situation, a trigger signal, and a collecting apparatus configured to collect, in response to the generation of said trigger signal, said data indicative of the behavior of the network measured and stored in said at least one monitoring apparatus.” As discussed above with respect to claim 1, Friedrich merely relates to a sensor reporting data only when a threshold configured in the sensor is exceeded while Minde is limited to transmission of reports at regular intervals. Neither reference teaches or suggests a collecting apparatus configured to collect network behavior data from a monitoring apparatus in response to *a trigger signal generated by a testing apparatus separate from the monitoring apparatus*. For example, even assuming, without conceding, that Friedrich describes a signal being generated upon a threshold being exceeded, the signal is generated within each network node (i.e., the alleged monitoring apparatus), not by an apparatus *separate from the monitoring apparatus*. See, e.g., Col. 7, ll. 11-14. Accordingly, claim 13 is allowable for at least these reasons.

Appln. No.: 10/522632
Amendment dated December 18, 2008
Reply to Office Action of July 18, 2008

Claims 2-7, 9, 10, 12, 14-21 and 23 are dependent claims and are thus allowable for at least the same reasons as their respective base claims and further in view of the novel and non-obvious features recited therein.

New Claims

Claims 32-39 have been added. No new matter has been added. Support for the features recited in claims 32-39 may be found throughout the originally filed specification.

New independent claims 32 and 37 recite features similar to those discussed above with respect to claim 1 and are thus allowable for at least the same reasons as claim 1. Claims 33-36 and 38 and 39 are dependent on claims 32 and 37, respectively, and are thus allowable for at least the same reasons as their respective base claims.

CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Dated: December 18, 2008

By: _____ /Chunhsing Andy Mu/
Chunhsing Andy Mu
Registration No. 58,216

1100 13th Street, N.W., Suite 1200
Washington, D.C. 20005-4051
Tel: (202) 824-3000
Fax: (202) 824-3001

CAM:lab